THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.30499 of 1998

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings No.1840/PC.II-3/96 dated 20.11.1996 passed by the first respondent against the letter of UGC No.F.130/77(GP) dated 3.8.1978 as arbitrary, illegal and consequently direct the respondents to continue the petitioner in the pay scale of Rs.3000-5000 and continue to pay revised pay scales without insisting on 55% marks in P. G. Degree course.

It appears, petitioner after completing his M.A. (Litt) from Vikram University, Ujjain joined as Lecturer in English at Mahatma Gandhi Mahavidyalaya, Ahmedpur, Maharashtra State with effect from 16.8.1972 and worked in an aided vacancy. However, thereafter, he resigned from the job on 31.8.1979 to enable him to join in an unaided vacancy in the third respondent college in the State of A.P. with effect from 16.8.1979 after being subjected to due process of selection. However, the post held by the petitioner in the third respondent college was admitted to grant-in-aid with effect from 1.9.1985 and the petitioner's pay was fixed in the pay scale of Rs.2200-4000 and he had drawn salary in the said scale till the date of passing impugned order. In the impugned order, the salary of the petitioner was sought to be reduced on the ground that he did not obtain 55% of the marks in the P.G. Degree, which was a minimum requirement for the purpose of applying U.G.C. scales. According to the petitioner, he had obtained 54.6% marks and at the time of his appointment after subjecting him to due process of selection on 16.8.1979 or when the post was admitted to grant-in-aid, there was no objection from any corner and in fact, his appointment was approved by the University also. Somehow, under the impugned order purported to be in view of audit objection, his salary was sought to be reduced to that of State's scales and excess of salary paid from

1.9.1985 till the date of passing impugned order was sought to be recovered.

The learned counsel for petitioner strenuously contended that any thing above 54.6% should be rounded off to 55%. In fact, in this regard, the Osmania University vide its circular dated 20.2.1982 issued instructions stating that the University has decided to treat 0.5% and above marks secured in aggregate at the P.G. level as 1% for the purpose of calculating percentage for recruitment to the University and affiliated colleges. For example, 54.5 and above will be treated as 55%. The Government of A.P. through G.O.Ms.No.406 dated 7.4.1981 had relaxed and condoned the shortage of percentage of marks less than 55% in case of some individuals. Similarly, Government also vide G.O.Ms.No.959 dated 30.11.1982, Memo No.1500/C.E.II-1/90-9 dated 15.12.1993 and in G.O.Ms.No.85 dated 22.3.1995 relaxed the condition of obtaining 55% marks in P.G. course in favour of K.Ramamohana Rao, Junior Lecturer in J.K.C. College, Guntur, M.Rajendra Prasad, Lecturer in A.N.R. College, Gudivada and P.Ravindra Reddy, Lecturer in Telugu, S.A.P. College, Vikarabad. Therefore, the petitioner is also entitled for such treatment and the fraction of 0.4% marks, which had fallen less for 55% marks could have been treated as 55%.

A detailed counter affidavit has been filed on behalf of respondents 1 and 2. Though the allegations made by the petitioner were denied, but the various G.Os. referred by the petitioner were not adverted to and the instructions issued by the University Grants Commission were also not disputed. The learned counsel for respondents stated that 55% marks in P.G. Degree is a pre-requisite condition for appointment as Lecturer and the petitioner cannot claim as a matter of right for grant of U.G.C. scales automatically. The respondents are supposed to follow the U.G.C. instructions as well as instructions issued by the Government strictly and in this case, no illegality has been committed by the respondents, therefore, the writ petition is devoid of merits and liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

It is an admitted fact that there is no dispute as to the appointment of the petitioner against an unaided vacancy after being subjected to due selection process with effect from 16.8.1979 and the post held by the petitioner was admitted to grant-in-aid with effect from 1.9.1985. The petitioner never claimed that he is entitled for U.G.C. Scales. It is the Department, which approved the action of the management in fixing the scale of the petitioner and after more than 11 years, the said benefit was withdrawn and recovery was sought to be made as to the difference of wages between U.G.C scale and State's scales. The facts, which are not in dispute, would reveal that the petitioner is entitled for relaxation by treating his 54.6% of marks to that of 55% marks as per the guidelines issued by the Osmania University and the various G.Os. referred to above.

Under those circumstances, the impugned order is set aside and the respondents are directed to treat 54.6% marks obtained by the petitioner as 55% marks. Further, petitioner is entitled for restoration of his pay scale as per U.G.C. scales as he was drawing and the subsequent benefits accrued therefrom till his retirement on 30.6.2006. However, it is made clear that the petitioner is not entitled for any difference of wages from the date of impugned order till he attained the age of superannuation. The pensionary and other retirement benefits shall be paid to the petitioner treating as if he was drawing U.G.C. scales continuously. However, the increments etc. shall be continued on notional basis.

The writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU, J

Date: 27.6.2007

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W.P.No.30499 of 1998

27.6.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.30499 of 1998

Date: 27th June, 2007

Between:

K.Siva Rami Reddy

.. Petitioner

And

The Commissioner of Collegiate Education,
Government of A.P., Hyderabad & others.

.. Respondents